

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1614. SALES TO THE UNITED STATES AND ITS INSTRUMENTALITIES.

Reference: Section 6381, 6381.5, Revenue and Taxation Code.
Construction contractors generally, see Regulation 1521
Motion pictures produced for United States Government, see Regulation 1529
Leases and rentals in general, see Regulation 1660
For Banks generally, see Regulation 1567

(a) GENERALLY. Sales tax does not apply to sales to:

- (1) The United States or its unincorporated agencies and instrumentalities.
- (2) Any incorporated agency or instrumentality of the United States wholly owned by either the United States, or by a corporation wholly owned by the United States.
- (3) The American National Red Cross, its chapters and branches.
- (4) Incorporated federal instrumentalities not wholly owned by the United States, unless federal law permits taxing the instrumentality. Examples of incorporated federal instrumentalities exempt from tax are federal reserve banks, federal credit unions, federal land banks, and federal home loan banks.

Application of the use tax to the storage, use, or other consumption of tangible personal property by agencies or instrumentalities of the United States is prohibited unless federal law permits taxing the agency or instrumentality.

Where payment for tangible personal property sold or consumed in this state is made partly by the United States or its instrumentalities and partly by nonexempt persons, the payment is exempt to the extent of the United States' or its instrumentality's share provided it is made directly to the vendor by the United States or its instrumentality. If the nonexempt party makes full payment and then seeks reimbursement from the United States or its instrumentality, the entire amount is taxable even though the United States or its instrumentality may reimburse the party in full or in part.

(b) ARMY AND AIR FORCE EXCHANGE SERVICES, NAVY EXCHANGES, COAST GUARD EXCHANGES, OPEN MESSES, AND OFFICERS' MESSES. Army and air force exchange services, navy exchanges, coast guard exchanges, open messes, and officers' messes, established pursuant to regulations of the appropriate branch of the armed services are instrumentalities of the United States, and tax does not apply to sales to these organizations.

Tax applies to sales to persons in the armed services of the United States, notwithstanding the circumstance that the merchandise may be billed through any army or air force exchange service, navy exchange, coast guard exchange, or similar organization.

(c) COMPANY AND OTHER UNIT FUNDS. Tax does not apply to sales to the armed services of merchandise purchased with unit and similar funds (company, troop, hospital, recreation, welfare, etc.) where the expenditures are made in accordance with appropriate regulations of the armed services for the general benefit of armed services personnel.

(d) CIVILIAN WELFARE FUNDS. Civilian welfare funds are established and administered under armed services regulations under which post restaurants are also administered. Both are nonappropriated fund activities and are unincorporated governmental instrumentalities. Accordingly, sales tax does not apply to sales made to such organizations properly conducted and operated at military installations in this state in accordance with appropriate regulations.

Any seller to such organizations claiming a transaction as exempt from sales tax must obtain from the purchaser a certificate similar to the following:

Regulation 1614 (Continued)

This is to certify that the _____
(Name of Fund)
located at _____ is a nonappropriated
(Name of Installation)
fund activity located at a military installation of the United States in the State of California and is conducted and operated in accordance with armed services regulations established for such activities. As such, sales to this nonappropriated civilian welfare fund are exempt from California state and state-administered local sales taxes.

Signature of Commanding Officer or Representative

Print or Type Name

Rank

Date

(e) THE SELECTIVE SERVICE SYSTEM. Tax does not apply to receipts from sales to State Procurement Officers for selective service authorized by selective service regulations.

(f) MEDICARE PROGRAM. Tax does not apply to the sale of items to a person insured pursuant to Part A of the Medicare Act as such sales are considered exempt sales to the United States.

Tax applies to the sale of an item to a person insured pursuant to Part B of the Medicare Act even though the person assigns the claim for reimbursement to the retailer and the retailer files the claim with, and is paid by, a carrier administering medicare claims under contract with the United States.

(g) SUPPORTING DOCUMENTS. Any seller claiming a transaction as exempt from tax under Section 6381 must obtain from the purchaser, and retain, a government purchase order or documents demonstrating direct payment by the United States to support the claim.

History: Effective as follows: Use Tax July 1, 1935; Sales Tax August 1, 1933, except Subdivisions (2) and (3) of Division (a), and Division (b) which became effective May 22, 1943.
Adopted as of January 1, 1945, as a restatement of previous rulings.
Amended August 2, 1965, applicable on and after August 1, 1965.
Amended and renumbered February 17, 1970, effective March 22, 1970.
Amended August 17, 1976, effective September 19, 1976. Added a reference, noted change in incidence of sales tax, that tax on banks is legal only where permitted by federal law, and that State law prohibits use tax on banks and deleted leases as taxable items.
Amended December 7, 1978, effective January 28, 1979. Amends subsection (a) and added new subsection (b) to provide that sales tax does not apply to sales other than leases to the United States or its instrumentalities, and added new subsection (c) to impose sales tax on sales to various corporations. The old subsection (b) and (c) and (d) thru (f) renumbered (d) thru (h) and added a new subsection (i).
Amended December 7, 1978, effective January 28, 1979. Deleted first paragraph after Section (a) (3) which was included in error, and in Section (i) correct the phrase "on leases in effect" to "or leases in effect".
Amended February 6, 1980, effective March 29, 1980. In (a) (3) deleted last sentence in first paragraph; in (b) added conditions for exemption; in (f) added lines for printed or typed name, and date; added (h), and relettered remaining subsections.
Amended May 9, 1984, effective August 29, 1984. Added new (a) (4); deleted former (b) and (c) and relettered succeeding subdivisions; deleted reference to leases from (b), (c), and (e) and deleted former (j).
Amended March 23, 2004, effective May 25, 2004. In subdivision (a)(4), the word "him" replaced with "the party." Subdivision (g)- phrase "a government remittance advice" replaced with "documents demonstrating direct payment by the United States" and word "his" replaced with "the."

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.